

22-764

ORIGINAL

No. 22-

IN THE
Supreme Court of the United States

HRAIR KALADJIAN,

Petitioner,

v.

JOSEPH R. BIDEN, IN HIS OFFICIAL CAPACITY
AS PRESIDENT OF THE UNITED STATES, U.S.
DEPARTMENT OF STATE, ANTONY BLINKEN,
IN HIS OFFICIAL CAPACITY AS SECRETARY OF
STATE AND UNITED STATES OF AMERICA ,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

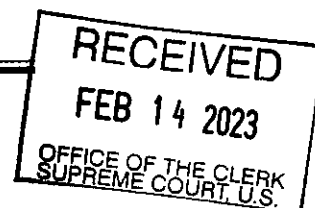
HRAIR KALADJIAN, Esq.
77564 Country Club Drive,
Suite 150
Palm Desert, California 92211
(760) 269-3850
harry@so-cal-lawyer.com

Petitioner in Pro Per

317534



COUNSEL PRESS
(800) 274-3321 • (800) 359-6859



QUESTION PRESENTED FOR REVIEW

Petitioner Hrair Kaladjian brought an action for injunctive relief against the President of the United States for his failure to report as required by the waiver provisions of Section 907 of the Freedom Support Act, arguing discrimination.

Upon filing of the action, Hrair Kaladjian requested a temporary restraining order prohibiting any illegal waiver of Section 907, which was denied after briefing, without hearing. Contemporaneously, the District Court dismissed the Complaint, without hearing and without leave to amend, reasoning that the claim lacked the Constitutional case or controversy requirement.

After the filing of the Opening Brief, the Ninth Circuit Court of Appeals granted summary affirmance of the District Court's ruling, reasoning that the question raised on appeal was insubstantial.

The following question is presented:

1. Whether the President's violation of Section 907 of the Freedom Support Act is actionable by a private citizen under the Fifth Amendment Equal Protection Clause of the United States Constitution.

**PARTIES TO THE PROCEEDING
AND RELATED CASES**

The parties to this proceeding include the following:

- Petitioner Hrair Kaladjian, is an individual;
- Respondent Joseph R. Biden, is an individual and was sued in his official capacity as President of the United States;
- Respondent U.S. Department of State;
- Respondent Antony Blinken, is an individual and was sued in his official capacity as Secretary of State;
- Respondent United States of America.

There are no parent or publicly held company owning 10% or more of the corporation's stock involved in this Petition.

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii):

- *Hrair Kaladjian v. Joseph R. Biden Jr., in his official capacity as President of the United States; U.S. Department of State; Antony Blinken, in his official capacity as Secretary of State; and the United States of America*, No. 5:22-cv-00733-SVW-AS, U.S. District Court for the Central District of California. Order entered May 11, 2022.
- *Hrair Kaladjian v. Joseph R. Biden, in his official capacity as President of the United States; U.S.*

Department of State; Antony Blinken, in his official capacity as Secretary of State; United States of America,
No.22-55776, U.S. Court of Appeals for the Ninth Circuit.
Judgment entered Nov. 9, 2022.

TABLE OF CONTENTS

	<i>Page</i>
QUESTION PRESENTED FOR REVIEW	i
PARTIES TO THE PROCEEDING AND RELATED CASES	ii
TABLE OF CONTENTS.....	iv
TABLE OF CITED AUTHORITIES	vi
I. PETITION FOR A WRIT OF CERTIORARI	1
II. OPINIONS BELOW	1
III. JURISDICTION.....	1
IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	2
V. INTRODUCTION	2
VI. STATEMENT OF THE CASE.....	2
VII. REASONS FOR GRANTING THE PETITION ..	9
A. Hrair Kaladjian Has Standing to Sue Because He Is Stigmatized	10
B. Hrair Kaladjian Has Statutory Standing	13
C. The Political Questions Doctrine Does Not Prohibit The Lawsuit	15

v

Table of Contents

	<i>Page</i>
D. This Court Should Enjoin Both the Presidential Waiver and Implementation of Waiver of Section 907	15
VIII. CONCLUSION.....	18

TABLE OF CITED AUTHORITIES

	<i>Page</i>
CASES:	
<i>Amoco Prod. Co. v. Vill. Of Gambell, AK,</i> 480 U.S. 531 (1987).....	16
<i>Association of Data Processing Service Organizations, Inc. v. Camp,</i> 397 U.S. 150 (1970).....	13
<i>Bolling v. Sharpe,</i> 347 U.S. 497 (1954).....	10
<i>Cottonwood Env'tl. Law Ctr. v. U.S. Forest Serv.,</i> 789 F.3d 1075 (9th Cir. 2015).....	16
<i>eBay Inc. v. MercExchange, L.L.C.,</i> 547 U.S. 388 (2006).....	16
<i>INS v. Chadha,</i> 462 U.S. 919 (1983).....	15
<i>Klein v. City of San Clemente,</i> 584 F.3d 1196 (9th Cir. 2009)	17
<i>Linda R.S. v. Richard D.,</i> 410 U.S. 614 (1973)	13
<i>Lexmark Int'l, Inc. v. Static Control Components, Inc.,</i> 572 U.S. 118 (2014)	13

Cited Authorities

	<i>Page</i>
<i>Lujan v. Defenders of Wildlife</i> , 504 U.S. 555 (1992).....	12
<i>Massachusetts v. EPA</i> , 549 U.S. 497 (2007).....	13
<i>Ray Charles Found. v. Robinson</i> , 795 F.3d 1109 (9th Cir. 2015)	13
<i>Sammartano v. First Judicial Dist. Court</i> , <i>in & for Cnty. Of Carson City</i> , 303 F.3d 959 (9th Cir. 2002)	17
<i>Valley Forge Christian College v.</i> <i>Americans United for Separation</i> <i>of Church and State, Inc.</i> , 454 U.S. 464 (1982).....	12
<i>Weinberger v. Romero-Barcelo</i> , 456 U.S. 305 (1982).....	15
<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008).....	15, 16
<i>Zivotofsky ex rel. Zivotofsky v. Clinton</i> , 566 U.S. 189 (2012).....	15

CONSTITUTIONAL PROVISIONS

U.S. Const., art. III.....	13
----------------------------	----

Cited Authorities

	<i>Page</i>
U.S. Const., art. III, § 2	2, 12
U.S. Const., amend. V	10
STATUTES	
5 U.S.C. § 551(1)	14
5 U.S.C. § 553	14
5 U.S.C. § 702	13
5 U.S.C. § 706(2)(A)	10, 14
5 U.S.C. § 706(2)(B)	10, 14
5 U.S.C. § 706(2)(C)	10, 14
5 U.S.C. § 706(2)(D)	14
22 U.S.C. § 5812	2, 11
28 U.S.C. § 1254(1)	1
2002 P.L. 107-115, title II, 115 Stat. 2129	2, 11
House Resolution 4350	7
P.L. 102-511	2

Cited Authorities

	<i>Page</i>
P.L. 102-511, title IX, § 907, 106 Stat. 3357	2, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18



I. PETITION FOR A WRIT OF CERTIORARI

Hrair Kaladjian respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

II. OPINIONS BELOW

The opinion denying Hrair Kaladjian's request for temporary restraining order and summary dismissal with prejudice (App.3a-6a) is unreported, and may be found at *Hrair Kaladjian v. Joseph R. Biden Jr., in his official capacity as President of the United States; U.S. Department of State; Antony Blinken, in his official capacity as Secretary of State; and the United States of America*, U.S. District Court for the Central District of California, Eastern Division, Case No. 5:22-cv-00733-SVW-AS; 2022 U.S. Dist. LEXIS 86467; 2022 WL 17080199.

The decision affirming summary dismissal without opinion (App.1a-2a) is unreported, and may be found at *Hrair Kaladjian v. Joseph R. Biden, in his official capacity as President of the United States; U.S. Department of State; Antony Blinken, in his official capacity as Secretary of State; United States of America*, No.22-55776, 2022 U.S. App. LEXIS 31106 (9th Cir., Nov. 9, 2022).

III. JURISDICTION

The Court of Appeals issued its decision on November 9, 2022. *See* App. 1a-2a. This Court has jurisdiction under 28 U.S.C. §1254(1).

IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the relationship between the President's violations of the waiver provisions of Section 907 of the Freedom Support Act ("FSA") vis-à-vis the Case or Controversy requirement of Article III, section 2 (App. 7a) and the Equal Protection clause (App. 8a) of the United States Constitution.

The FSA is codified as a note to 22 U.S.C. § 5812, under Public Law 102-511. *See* App. 9a-20a; specifically, *see* App.18a (section 907).

The waiver amendment to Section 907 was enacted in 2002 P.L. 107-115, title II [(g)(2)-(6)], 115 Stat. 2129. *See* App 16a-18a.

The full text of each of these provisions is contained in Appendix C.

V. INTRODUCTION

This petition arises from President Biden's violations of his mandatory reporting requirements when waiving Section 907 of the Freedom Support Act, and the State Department's illegal implementation of said waivers, which have resulted in the stigmatization of Petitioner as an American of Armenian Ancestry.

VI. STATEMENT OF THE CASE

Petitioner and California attorney Hrair Kaladjian is a U.S. taxpaying citizen of Armenian descent, originally

from Ethiopia and whose grandparents are all orphaned survivors of the Armenian Genocide. Hrair Kaladjian is a member of the Armenian Apostolic faith whose church in California was firebombed by Azerbaijani terrorism in 2020 and which terrorism was spread by and encouraged by the violent rhetoric emanating from the Turkic dictator of the Republic of Azerbaijan. The United States State Department has warned Hrair Kaladjian that he is barred from traveling to Azerbaijan because he is of Armenian ethnicity. As an ethnic Armenian, Hrair Kaladjian is labeled by the Government of Azerbaijan as a state enemy, even though he is American, and carries no citizenship with Armenia.

As part of its ongoing ethnic cleansing campaign against the Christian Armenians residing in the former Soviet region known as Nagorno-Karabakh, the Turkic Government of Azerbaijan has declared all Armenians regardless of nationality or residence including Petitioner, as state enemies. This genocidal policy of Azerbaijan follows the pan-Turkic policy of the Government of Turkey, the successor state of the Ottoman Empire which committed the Armenian Genocide of 1915, to unite all Turkic countries spanning from Europe to China, without the indigenous Armenians. The remaining Armenians, the indigenous population of the region, stand in the way. Turkey and Azerbaijan have declared themselves to be "one nation, two states."

Armenophobia has reached to such a violent extreme that the official stamp of Azerbaijan depicts the chemical cleansing of lands inhabited by Armenians; President Ilham Aliyev, the dictator of Azerbaijan has commissioned a trophy park made out of the helmets of dead Armenians

and prominently features himself amongst it; he has commissioned a park with mannequins depicting Armenians with grossly exaggerated physical features to mock as per his latest educational requirements for children; he commissioned the destruction of the largest medieval Armenian cemetery in the area known as Julfa in the former Armenian region of Nakhichevan; he rewards individuals to kill Armenians wherever they may live; and he intentionally mislabels Armenian indigenous heritage sites as Albanian.

In 2020, President Aliyev launched a brutal war on Armenians with Turkey whereby Jihadi terrorists from the middle east were flown into Azerbaijan by the government owned Turkish Airlines, with promises of ransom for the slaughter of Armenians in exchange for a monthly stipend of \$2000 with \$100 for every beheaded Armenian. Also in 2020, the Turkish ultra-nationalist "Grey Wolves" group went on a hunting campaign to kill Armenians throughout the world. President Aliyev and President Erdogan of Turkey jointly declared the opening of a Grey Wolves academy.

This Armenophobia reached the United States when in 2020, the Armenian church and school in San Francisco were firebombed, whereby the vandals spray painted the Azerbaijani flag. Also in San Francisco, an Armenian church was torched, and the adjoining Armenian school was fired at by gunshots. Petitioner is a member of the targeted church. Another incident included marking of an Armenian house with a red cross, a tactic observed during the anti-Armenian pogroms of 1988 within the then Soviet Republic of Azerbaijan.

In response, on November 4, 2020, France banned the Grey Wolves, and the 27 member states urged the European Union to designate the Grey Wolves as a terrorist group, marking for the first time that an EU institution has linked the Grey Wolves to terrorism. American Congressional leaders sought to investigate the Grey Wolves and to designate them as a foreign terrorist organization. The Uruguayan Foreign Ministry summoned the Turkish ambassador Muftuoglu after Foreign Minister Mevlut Cavusoglu taunted Armenians by flashing a salute of the ultra-nationalist Grey Wolves organization on April 24, 2022 – the day of remembrance marking the Armenian Genocide.

Similarly, on December 7, 2021, the International Court of Justice issued provisional measures which include requiring Azerbaijan to “[t]ake all necessary measures to prevent the incitement and promotion of racial hatred and discrimination, including by its officials and public institutions, targeted at persons of Armenian national or ethnic origin.”

Despite this ruling, Azerbaijan continues with its policy of Armenophobia. Since 1988 and until today, the Armenian Diaspora, which includes Petitioner, have been labeled as state enemies and are prohibited to travel to Azerbaijan. This targeted prohibition is widely publicized by the United States Government. As a result, the U.S. based Armenian Bar Association, of which Petitioner is a member, filed a report with the Committee on the Elimination of Racial Discrimination (CERD) as to the rampant Armenophobia that is spread by Azerbaijan. CERD is the United Nations body of independent experts that monitors implementation of the Convention on the

Elimination of All Forms of Racial Discrimination by its States parties. The pervasive nature of hate includes Armenophobia that is taught in the educational system in Azerbaijan. The hate speeches resulted in the suspension of the Twitter account of the Assistant to the Azerbaijani President.

Armenophobia extends to the Turkish Government, whereby President Erdogan referenced Armenians as the "leftovers of the sword" in reference to the Armenian Genocide survivors and their descendants, which include Petitioner. As an example, during a December 2020 parade attended by Presidents Erdogan and Aliyev, President Erdogan remarked: "today is the day when the spirit of the martyrs of Karabakh, Enver Pasha and all the heroes of the entire Turkic world found peace." Enver Pasha was the Ottoman Minister of War, one of the prime architects of the Armenian Genocide.

Since June 21, 2022, the Government of Azerbaijan has upgraded its military uniform to include a patch depicting and exalting Enver Pasha featuring a Turkish motto threatening those of Armenian ancestry, which translates into: "Armenian, if you stay, you will die, if you run you will die of exhaustion" - signaling international violence against Armenians.

Further distressing has been both Turkey's and Azerbaijan's state sponsorship of terrorism through the Grey Wolves Association. Both Turkey and Azerbaijan are considered "One Nation, Two States" and they coordinate their military, economic and social activities to such an extent that their activities are indiscernible.

Since 2020, American Congressional leaders urged various amendments to House Resolution 4350 urging a review of Azerbaijan's policies of gross violations of human rights (Amendment 123); a report on Azerbaijan (Amendment 696); the cessation of US funds for the military of Azerbaijan (Amendment 52); prohibition of security assistance to Azerbaijan (Amendment 90); withholding US military aid (Amendment 122).

Azerbaijan, for its part, has attempted to undermine U.S. democratic values and institutions via its \$3 billion slush fund referenced as the Azerbaijani Laundromat scheme as published by the Organized Crime and Corruption Reporting Project. There has been a federal grand jury probe that led to the raid of Congressman Henry Cuellar's home and office in Texas and which prompted a series of subpoenas seeking records about a wide array of U.S. companies and advocacy organization, many of them with ties to Azerbaijan.

Recognizing past genocidal policies, Congress in 1992 passed the Freedom Support Act which restricted American financial assistance to the Government of Azerbaijan. Specifically, Section 907 of the FSA bans any kind of direct American aid unless Azerbaijan takes demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh. Section 907 was passed following Congressional resolutions condemning the Armenophobia demonstrated during the waning years of the Soviet Union as anti-Armenian pogroms, killings and deportations were instituted as state policy of Azerbaijan, starting in 1988 and then following its purported independence since 1991, including its spread of Armenophobia reaching the Armenian Diaspora.

Azerbaijan has marked all Armenians, regardless of nationality, as enemies, tying the Armenian Diaspora (including Petitioner) to all its disputes vis-à-vis Armenia and Nagorno-Karabakh.

In 2002, Section 907 was amended to allow the President the ability to waive Section 907 if he determines and certifies to the Committees on Appropriations that to do so . . . "(D) will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be sued for offensive purposes against Armenia." This waiver provision requires a reporting to the effect of American financial assistance.

No such reporting has ever taken place by President Biden, yet he has waived Section 907 in 2021 and again in 2022, despite the brutal war waged by Azerbaijan against Armenians in 2020.

On March 2, 2022, Senator Bob Menendez, Chairman of the Senate Foreign Relations Committee released a statement following the Government Accountability Office's ("GAO") publication of a report finding that the State Department failed to comply with reporting requirements for reviewing U.S. assistance to the Government of Azerbaijan. That is, on September 27, 2020, in the midst of Covid and the American elections, Azerbaijan launched a full scale war calling for the ethnic cleansing of Armenians to be rid "like dogs."

In April 2021, President Biden waived Section 907 despite the war and despite all the Armenophobic rhetoric coming out of Azerbaijan.

On December 7, 2021, the International Court of Justice issued a ruling calling for Azerbaijan to cease its hatred and discrimination "targeted at persons of Armenian national or ethnic origin."

Despite the war and rampant Armenophobia, in 2022, President Biden again waived Section 907.

President Biden's violation of the reporting mandates of the waiver provision of Section 907 has stigmatized Petitioner, an American of Armenian ancestry, because he has essentially endorsed and emboldened Armenophobia in violation of the Statute; in violation of the Equal Protection Clause of the United States Constitution; and, in violation of the Administrative Procedure Act.

VII. REASONS FOR GRANTING THE PETITION

The case presents an issue of national importance. This Court has not addressed the issue of whether race-based stigma damages confer standing under the Equal Protections Clause of the United States Constitution based upon the President's violation of a statute. It is time it does so. America cannot be a place where race-based stigmatization can be endorsed by a sitting President, especially when he openly and unabashedly violates the mandates of a statute.

By issuing his yearly waiver without providing his annual reporting and its implementation, President Biden and the executive branch have violated the mandates of Section 907. Not only did they violate the law, but they also endorse Armenophobia in violation of the Equal Protection Clause of the United States Constitution.

The crime of the Armenian Genocide persists to this day. Americans of Armenian ancestry such as Petitioner live in constant fear of Turkish tyranny and terror. America should not be complicit by allowing the executive branch to violate the mandates of a statute, when in fact, there are no repercussions for its violation.

President Biden's past and current waiver of Section 907 are intended to disfavor Americans of Armenian ancestry because his waiver supports Armenophobia in light of the known hatred, violence and discrimination that Section 907 was intended to prevent, especially when considering that the dictator in Azerbaijan has labeled the Armenian Diaspora as enemies of the state thereby targeting Armenian-Americans such as Petitioner.

Moreover, in waiving and implementing the waiver of Section 907, the executive branch has acted arbitrarily and capriciously because it has failed to comply with the reporting requirements pursuant to the report filed by the Government Accountability Office, all in violation of 5 United States Code section 706(2)(A)-(C) of the Administrative Procedure Act, which is again tantamount to Armenophobia.

A. Hrair Kaladjian Has Standing to Sue Because He Is Stigmatized

The Fifth Amendment to the United States Constitution prohibits discrimination in that no person shall "be deprived of life, liberty, or property, without due process of law." The Supreme Court has interpreted the due process clause to guarantee equal protection. *See Bolling v. Sharpe*, 347 U.S. 497 (1954).

P.L. 102-511, title IX, section 907, of 106 Stat. 3357 and codified as a note to 22 U.S.C. section 5812 provides that the "United States assistance under this or any other Act . . . may not be provided to the Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh."

The Waiver provision enacted in 2002 P.L. 107-115, title II [(g)(2)-(6)], 115 Stat. 2129, provides that "[t]he President may waive section 907 of the [FSA]" provided that he determines and certifies to the Committees on Appropriations that to do so "(D) will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia. That the "President may extend the waiver authority . . . on an annual basis . . . if he determines and certifies to the Committees on Appropriations . . ." "(6) Within 60 days of any exercise of the authority . . . the President shall send a report to the appropriate congressional committees specifying in the detail the following - (A) the nature and quantity of all training and assistance provided to the Government of Azerbaijan . . . (B) the status of the military balance between Azerbaijan and Armenia and the impact of United States assistance on that balance; and (C) the status of negotiations for a peaceful settlement between Armenia and Azerbaijan and the impact of United States assistance on those negotiations."

The executive acts of waiving Section 907 cause stigmatization of Armenian-Americans because they are

tantamount to Armenophobia and discrimination as against Hrair Kaladjian. The United States State Department has warned Hrair Kaladjian that his travel to Azerbaijan is prohibited and it is aware of the violence and threats of violence against ethnic Armenians living throughout the world including America. Knowing this, President Biden has waived Section 907 – without reporting - to further stigmatize and promote discrimination against Hrair Kaladjian.

The core component of standing derived directly from Article III, section 2 of the Constitution is the requirement that the party bringing the suit allege some actual or threatened injury caused by the putatively unlawful conduct of the defendant which is likely to be redressed by the requested relief. *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 472 (1982). In other words, to have standing to sue in federal court a “plaintiff must allege (1) that he has suffered an injury in fact (2) that is fairly traceable to the action of the defendant and (3) that will likely be redressed with a favorable decision.” See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

Here, Petitioner has alleged (1) an injury in fact (stigmatization due to the President’s unlawful waiver) that is (2) traceable to the action of Defendants (failure to comply with Section 907 reporting requirement) and (3) that will likely be redressed with a favorable decision (injunctive relief unless and until the executive branch actually complies with Section 907).

B. Hrair Kaladjian Has Statutory Standing

Congress has enacted numerous statutes creating legal rights, the invasion of which may confer standing under Article III even though no injury would exist without such statute. See *Linda R.S. v. Richard D.*, 410 US 614, 617 (1973); *Massachusetts v. EPA*, 549 US 497, 517 (2007).

Standing under a statutory cause of action extends only to plaintiffs whose interests “fall within the zone of interests protected by the law invoked.” *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 US 118, 129 (2014); *Ray Charles Found. v. Robinson*, 795 F3d 1109, 1120-21 (9th Cir. 2015).

The “modern” zone of interests formulation originated as a limitation on the cause of action for judicial review under the Administrative Procedure Act (APA). *Lexmark Int’l, Inc. v. Static Control Components*, 572 US at 129 citing *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 US 150 (1970).

The APA grants federal court standing to any “person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute.” 5 USC §702. In determining APA standing, “the benefit of any doubt goes to the plaintiff” and the zone-of-interests test “forecloses suit only when a plaintiff’s interests are so marginally related to or inconsistent with the purposes implicit in the statute that it cannot reasonably be assumed that Congress authorized that plaintiff to sue.” *Lexmark Int’l, Inc.* 572 US at 130.

In light of the centuries old Turkic genocidal policies toward Armenians, the Freedom Support Act was passed as a means to curb further violence and discrimination. Thus, the Presidential waiver of the Act is tantamount to endorsing Armenophobia.

The Presidential waiver violates the APA, which requires the courts to hold unlawful and set aside any agency action that is "arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law"; "contrary to constitutional right, power, privilege, or immunity"; or "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. §706(2)(A)-(C).

In waiving and implementing the waiver of Section 907, Respondents have acted arbitrarily and capriciously. Among other arbitrary actions and omissions, Respondents have failed to comply with their reporting requirements for reviewing U.S. assistance to the Government of Azerbaijan pursuant to the report filed by the Government Accountability Office.

Lastly, the APA requires courts to hold unlawful and set aside any agency action taken "without observance of procedure required by law." 5 U.S.C. §706(2)(D). The Department of State is an "agency" under the APA. See 5 U.S.C. §551(1). The APA requires that agencies follow rulemaking procedures before engaging in action that impacts substantive rights. See 5 U.S.C. §553.

In implementing President Biden's waiver of Section 907, federal agencies such as the State Department and Secretary Blinken have allowed stigmatization

as against Hrair Kaladjian, impacting his substantive rights. Through their actions, Respondents have violated the procedural requirements of the APA, causing Armenophobia.

C. The Political Questions Doctrine Does Not Prohibit The Lawsuit

A court can review foreign policy arguments that are offered to justify legislative or executive action when constitutional rights are at stake: “the presence of constitutional issues with significant political overtones does not automatically invoke the political question doctrine.” *INS v. Chadha*, 462 US 919, 942-43 (1983); *see also Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 US 189, 196-200 (2012) (parents’ action seeking an injunction ordering the Secretary of State to identify their child’s place of birth as “Jerusalem, Israel” in official documents pursuant to the Foreign Relations Authorization Act was not barred under the “political question” doctrine.)

Similarly, any anticipated political questions doctrine arguments are belied by the Constitutional protections and Congressional mandates raised by Petitioner.

D. This Court Should Enjoin Both the Presidential Waiver and Implementation of Waiver of Section 907

“An injunction is a matter of equitable discretion; it does not follow from success on the merits as a matter of course.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 32 (2008) (*citing Weinberger v. Romero-Barcelo*, 456 U.S. 305, 313 (1982)). “[T]he balance of equities and

consideration of the public interest” are “pertinent in assessing the propriety of any injunctive relief, preliminary or permanent.” *Id.* at 32; see *Amoco Prod. Co. v. Vill. Of Gambell, AK*, 480 U.S. 531, 546 n.12 (1987) (“The standard for a preliminary injunction is essentially the same as for a permanent injunction with the exception that [for a preliminary injunction] the plaintiff must show a likelihood of success on the merits rather than actual success.”). Specifically, “[u]nder ‘well-established principles of equity,’ a plaintiff seeking permanent injunctive relief must satisfy a four-factor test by showing: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.” *Cottonwood Envtl. Law Ctr. v. U.S. Forest Serv.*, 789 F.3d 1075, 1088 (9th Cir. 2015) (citing *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006)).

For the reasons explained above, Hrair Kaladjian has satisfied the standard for injunctive relief: (1) Hrair Kaladjian has demonstrated success on the merits because the Presidential waiver of section 907 is Armenophobia in violation of the provisions of Section 907 and the United States Constitution; (2) there are no monetary issues flowing from President Biden’s illegal waiver; (3) Hrair Kaladjian has suffered an injury in fact and will continue to suffer irreparable harm in the absence of an injunction because he has been stigmatized as an American of Armenian ancestry by virtue of the Presidential waiver; (4) the balance of equities tips in Hrair Kaladjian’s favor (ethnicity based discrimination cannot be favored); and

(5) an injunction is in the public interest (recognizing the public interest in preventing discrimination against Armenian-Americans).

It is worthy to note that the Courts have always recognized the loss of first amendment freedoms (i.e., religious discrimination) as constituting irreparable injury and for purposes of analyzing equitable relief. *See Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009); *Sammartano v. First Judicial Dist. Court, in & for Cnty. Of Carson City*, 303 F.3d 959, 973 (9th Cir. 2002).

Surely, this Court will apply the same viewpoint to confer standing in its efforts at curbing discrimination on the basis of ethnicity – a right guaranteed under the Equal Protection Clause.

VIII. CONCLUSION

America cannot be a place that condones and endorses Armenophobia by a sitting President who openly violates the mandates of a statute, without legal repercussion.

The petition for writ of certiorari should be granted on the basis that the waiver and implementation of said waiver of Section 907 constitute Armenophobia in violation of the statute, the Equal Protection Clause of the United States Constitution, and in violation of the Administrative Procedure Act.

Respectfully submitted,

HRAIR KALADJIAN, Esq.
77564 Country Club Drive,
Suite 150
Palm Desert, California 92211
(760) 269-3850
harry@so-cal-lawyer.com

Petitioner in Pro Per

TABLE OF APPENDICES

	<i>Page</i>
APPENDIX A — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, DATED NOVEMBER 9, 2022	1a
APPENDIX B — OPINION OF THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, FILED MAY 11, 2022	3a
APPENDIX C — CONSTITUTIONAL AND STATUTORY PROVISIONS	7a